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10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2007-277

14 WALTER DAVID EASON
4423 Nisbit Lake Rd
15 Jacksonville, AL 36265

16 Respondent.

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

17
18 FINDINGS OF FACT

19 1. On or about April 18, 2007, Complainant Ruth Ann Terry, M.P.H., R.N., in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs, filed Accusation No. 2007-277 against Walter David Eason (Respondent)
22 before the Board of Registered Nursing.

23 2. On or about August 27, 2002, the Board of Registered Nursing (Board) issued
24 Registered Nurse License No. 605403 to Respondent. The license expired on February 28, 2006,
25 and has not been renewed.

26 3. On or about April 26, 2007, Tess Bautista, an employee of the Department of
27 Justice, served by Certified and First Class Mail a copy of the Accusation No. 2007-277,
28 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code

1 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which
2 was and is 4423 Nisbit Lake Road, Jacksonville, AL 36265. On or about July 5, 2007, Tess
3 Bautista, an employee of the Department of Justice, re-served by Certified and First Class Mail a
4 copy of the Accusation No. 2007-277, Statement to Respondent, Notice of Defense, Request for
5 Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent at Post
6 Office Box 1185, Jacksonville, AL 36265-5185, which was the new address provided by the
7 U. S. Postal Service. A copy of the Accusation, the related documents, and Declarations of
8 Service are attached as exhibit A, and are incorporated herein by reference. None of the mailings
9 of July 5, 2007 have been returned by the U.S. Postal Service.

10 4. Service of the Accusation was effective as a matter of law under the provisions of
11 Government Code section 11505, subdivision (c).

12 5. On or about May 30, 2007, the aforementioned documents served on April 26,
13 2007 were returned by the U.S. Postal Service marked "Notify Sender of New Address, Eason,
14 Walter D, PO Box 1185, Jacksonville, AL 36265-5185." A copy of the envelope returned by the
15 post office is attached hereto as exhibit B, and is incorporated herein by reference.

16 6. Business and Professions Code section 118 states, in pertinent part:

17 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
18 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
19 order of a court of law, or its surrender without the written consent of the board, shall not, during
20 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
21 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
22 provided by law or to enter an order suspending or revoking the license or otherwise taking
23 disciplinary action against the license on any such ground."

24 7. Government Code section 11506 states, in pertinent part:

25 ~~BEFORE~~ (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
26 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
27 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
28 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

1 5. Respondent is presently a fugitive from justice in California.

2 ORDER

3 IT IS SO ORDERED that Registered Nurse License No. 605403, heretofore issued to
4 Respondent Walter David Eason, is revoked.

5 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
6 written motion requesting that the Decision be vacated and stating the grounds relied on within
7 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
8 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

9 This Decision shall become effective on November 2, 2007.

10 It is so ORDERED October 2, 2007

11 *LaTranene W Tate*

12 _____
13 FOR THE BOARD OF REGISTERED NURSING
14 DEPARTMENT OF CONSUMER AFFAIRS

14 Attachments:

15 Exhibit A: Accusation No.2007-277, Related Documents, and Declarations of Service
16 Exhibit B: Copy of Envelope Returned by Post Office
17 Exhibit C: Certificate of Costs - Declaration of Susan Fitzgerald

Exhibit A

Accusation No. 2007-277,

Related Documents and Declarations of Service

RECEIVED
2007-01-20

2007-01-20 10:20

2007-01-20

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10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2007-277

14 **WALTER DAVID EASON**
4423 Nisbit Lake Road
15 Jacksonville, AL 36265

ACCUSATION

16 **Registered Nurse License No. 605403,**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation solely in
21 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about August 27, 2002, the Board of Registered Nursing ("Board") issued
24 Registered Nurse License Number 605403 to Walter David Eason ("Respondent"). The license
25 expired on February 28, 2006, and has not been renewed.

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28 ///

JURISDICTION

3. Section 2750 of the Business and Professions Code ("Code") provides:

Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article [Article 3 of the Nursing Practice Act (Bus. & Prof. Code, § 2700 et seq.)]. As used in this article, "license" includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code [the Administrative Procedure Act], and the board shall have all the powers granted therein.

4. Code section 2764 provides:

The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licentiate shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license.

STATUTORY PROVISIONS

5. Code section 2761 provides, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

6. Code section 2762 provides, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

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(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

....

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

7. Code section 4022 provides:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

8. Code section 4060 provides:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,

1 veterinarian, naturopathic doctor, certified nurse- midwife, nurse
2 practitioner, or physician assistant, when in stock in containers
3 correctly labeled with the name and address of the supplier
4 or producer.

5 9. Health and Safety Code section 11173, subdivision (a), provides:

6 (a) No person shall obtain or attempt to obtain controlled
7 substances, or procure or attempt to procure the administration
8 of or prescription for controlled substances, (1) by fraud, deceit,
9 misrepresentation, or subterfuge; or (2) by the concealment of
10 a material fact.

11 10. Code section 125.3 provides that the Board may request the administrative law
12 judge to direct a licensee found to have committed a violation or violations of the licensing act
13 to pay a sum not to exceed the reasonable costs of the investigation and enforcement of
14 the case.

15 DRUGS

16 11. “Demerol” is a brand of meperidine hydrochloride, a derivative of pethidine, and a
17 Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision
18 (c)(17), and a dangerous drug within the meaning of Code section 4022.

19 12. “Opiates” are Schedule II controlled substances pursuant to Health and Safety
20 Code section 11055, subdivision (c), and dangerous drugs within the meaning of Code section
21 4022.

22 Background

23 13. From on or about April 27, 2004, until on or about November 19, 2004,
24 Respondent was employed at Palo Verde Hospital (Palo Verde), located in Blythe, California.

25 14. On or about November 19, 2004, an audit by Palo Verde of controlled substance
26 transaction records and patient medical records disclosed that from on or about November 13,
27 2004, through on or about November 15, 2004, Respondent obtained dosages of Demerol for
28 patient administration and failed to account for the disposition of those doses of Demerol in any
29 hospital, patient, or other record. On November 19, 2004, a specimen of Respondent's urine
30 tested positive for Opiates.

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FIRST CAUSE FOR DISCIPLINE

(False, Grossly Incorrect, Grossly Inconsistent Record Entries)

15. Respondent's license is subject to discipline for unprofessional conduct under Code section 2762, subdivision (e), in that from on or about November 13, 2005, through on or about November 15, 2005, while working at Palo Verde, Respondent made false, grossly incorrect, or grossly inconsistent entries in hospital, patient, or other records pertaining to controlled substances, as follows:

a. **Patient #1.** On or about November 13, 2004, at approximately 0004 hours and 0118 hours, without a physician's order to do so, Respondent obtained one 100 mg dose of Demerol each time for administration to patient #1. Respondent failed to account for the 200 mgs of Demerol in any hospital, patient, or other record.

b. **Patient #2.** On or about November 13, 2004, at approximately 2009 hours, Respondent obtained a 100 mg dose of Demerol for administration to patient #2. Respondent failed to account for the 100 mgs of Demerol in any hospital, patient, or other record.

c. **Patient #3.** On or about November 13, 2004, at approximately 2110 hours, without a physician's order to do so, Respondent obtained a 100 mg dose of Demerol for administration to patient #1. Respondent failed to account for the 100 mgs of Demerol in any hospital, patient, or other record.

d. **Patient #4.** On or about November 13, 2004, at approximately 2104 hours, without a physician's order to do so, Respondent obtained a 100 mg dose of Demerol for administration to patient #4. Respondent failed to account for the 100 mgs of Demerol in any hospital, patient, or other record.

e. **Patient #5.** On or about November 13, 2004, at approximately 2123 hours, without a physician's order to do so, Respondent obtained a 100 mg dose of Demerol for administration to patient #5. Respondent failed to account for the 100 mgs of Demerol in any hospital, patient, or other record.

f. **Patient #6.** On or about November 14, 2004, between approximately 0520 hours and 0529 hours, without a physician's order to do so, Respondent obtained a 100 mg dose of

1 Demerol for administration to patient #6. Respondent failed to account for the 100 mgs of
2 Demerol in any hospital, patient, or other record.

3 g. **Patient #7.** On or about November 15, 2004, between approximately 0500 hours and
4 0559 hours, without a physician's order to do so, Respondent obtained a 100 mg dose of
5 Demerol for administration to patient #7. Respondent failed to account for the 100 mgs of
6 Demerol in any hospital, patient, or other record.

7 h. **Patient #8.** On or about November 15, 2004, between approximately 0600 hours and
8 0700 hours, without a physician's order to do so, Respondent obtained a 100 mg dose of
9 Demerol for administration to patient #8. Respondent failed to account for the 100 mgs of
10 Demerol in any hospital, patient, or other record.

11 i. **Patient #9.** On or about November 15, 2004, at approximately 2220 hours, without a
12 physician's order to do so, Respondent obtained a 100 mg dose of Demerol for administration to
13 patient #9. Respondent failed to account for the 100 mgs of Demerol in any hospital, patient, or
14 other record.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Wrongfully Obtaining, Possessing, and Self-Administering 17 Controlled Substances and Dangerous Drugs)**

18 16. Respondent's license is subject to discipline for unprofessional
19 conduct under Code section 2762, subdivision (a), in that Respondent did the following:

20 a. **Wrongfully Obtaining a Controlled Substance and Dangerous Drug.** As set forth
21 under paragraph 15 above, from on or about November 13, 2004, through on or about November
22 15, 2004, Respondent obtained Demerol by fraud, deceit, misrepresentation, or subterfuge, or by
23 the concealment of material facts, in violation of Health and Safety code section 11173,
24 subdivision (a).

25 b. **Wrongfully Possessing Controlled Substances and Dangerous Drugs.** As set forth
26 under paragraph 15 above, while working at Palo Verde, from on or about November 13, 2004,
27 through on or about November 15, 2004, Respondent possessed Demerol without the

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1 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor,
2 in violation of Code section 4060.

3 c. Wrongfully Self- Administering a Controlled Substance and Dangerous Drug. On or
4 about November 19, 2004, Respondent self-administered Opiates, without the direction of a
5 licensed physician and surgeon, dentist, or podiatrist.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Out of State Disciplinary Action)**

8 17. Respondent's license is subject to disciplinary action for unprofessional conduct
9 under Code section 2761, subdivision (a)(4), in that effective November 22, 2005, pursuant to the
10 Consent for Entry of Voluntary Surrender, Order No. 0505086, out-of state disciplinary action
11 was taken against Respondent by the Arizona State Board of Nursing in the case entitled "*In the*
12 *Matter of Professional Nurse License No. RN131442 Issued to: Walter David Eason,*" wherein
13 the voluntary surrender of Respondent's State of Arizona nursing license was accepted by the
14 Arizona State Board of Nursing.

15 18. A copy of the disciplinary action entitled, "*In the Matter of Professional Nurse*
16 *License No. RN131442 Issued to: Walter David Eason,*" is attached hereto as "Exhibit A," and is
17 incorporated herein by reference.

18 **FACTOR IN AGGRAVATION**

19 19. Respondent is a fugitive from justice. In 2006 he was arrested and charged with
20 10 counts of violating Health & Safety Code section 11173(A) (obtaining or attempting to obtain
21 controlled substances by fraud, deceit or subterfuge). (*People v. Walter David Eason*, Riverside
22 County Superior Court Case No. BLF003952.)

23 20. On or about April 19, 2006, a bench warrant issued for his arrest, and it is still
24 outstanding.


25 **PRAAYER**

26 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein
27 alleged, and that following the hearing the Board issue a decision:

28 ///

- 1 1. Revoking or suspending Registered Nurse License Number 605403,
2 issued to Walter David Eason;
3 2. Ordering Walter David Eason to pay the reasonable costs incurred by the Board in
4 the investigation and enforcement of this case pursuant to Code section 125.3; and,
5 3. Taking such other and further action as deemed necessary and proper.

6 **DATED:** 4/18/07

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9 
10 RUTH ANN TERRY, M.P.H., R.N.
11 Executive Officer
12 Board of Registered Nursing
13 Department of Consumer Affairs
14 State of California
15 Complainant
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